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5 Reno, Nevada 89509
6 (775) 324-1011

03 MAR 20 PM 3:55

LANCE R. WILSON
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7 Attorneys for Defendants
8 Housing Authority of the City of Reno and
9 David Morton

10
11 UNITED STATES DISTRICT COURT
12 DISTRICT OF NEVADA

13 TRUCKEE MEADOWS FAIR
14 HOUSING; and ROBERTA
15 KUGUENKO,
16

17 CASE NO.: CV-N-00-0596-HDM-RAM
18

19 Plaintiffs,

20 vs.

21 HOUSING AUTHORITY OF
22 THE CITY OF RENO; DAVID
23 MORTON in his capacity as the
24 director of the HOUSING
25 AUTHORITY OF THE CITY OF
26 RENO; ARCHITECTS +, a
27 Nevada licensed architecture firm;
28 Paul D. Walsh, AIA; JOSEPH
PACE CONSTRUCTION, Inc., a
Nevada corporation; MCKENZIE-
NALL CO., a Nevada corporation,

19 Defendants.
20 /

21 and related cross complaint
22 /

23 **ANSWER OF DEFENDANTS HOUSING AUTHORITY
OF THE CITY OF RENO AND DAVID MORTON
TO CROSS COMPLAINT OF PACE CONSTRUCTION, INC.**

24 Cross-defendants Housing Authority of the City of Reno and David Morton,
25 by and through their attorneys, Kern & Rosenauer, Ltd., for their answer to the cross-complaint
26 of cross-complainant Pace Construction, Inc. on file herein do admit, deny and specifically
27 allege as follows:
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I. JURISDICTION AND VENUE

1. Answering paragraphs 1 and 2 of the cross-complaint entitled Jurisdiction and Venue, these answering cross-defendants admit the allegations contained therein.

II. GENERAL ALLEGATIONS

5 2. Answering paragraph 3 of the cross-complaint in the section entitled
6 General Allegations, these answering cross-defendants admit that the Housing Authority of the
7 City of Reno is a governmental agency with its principal place of business located at 1525 East
8 Ninth Street in Reno, Nevada and operates a total of eight public housing developments with
9 758 units and operates another eight housing complexes with 297 units and owns and operates
10 and continues to own and operate the McGraw Court apartment complex. These answering
11 cross-defendants allege that Silver Sage is operated through a Joint Venture Agreement with
12 Silver Sage Manor, Inc. and owned by the Silver Sage Joint Venture. These answering cross-
13 defendants allege that pursuant to the requirements of the Department of Housing and Urban
14 Development and in reliance on its hired professionals, the Housing Authority of the City of
15 Reno developed the McGraw Court and Silver Sage apartment units. These answering cross-
16 defendants deny the remaining allegations of paragraph 3.

17 3. Answering paragraph 4 of the cross-complaint in the section entitled
18 General Allegations, these answering cross-defendants admit that David Morton is the
19 executive director of the Housing Authority of the City of Reno and Mr. Morton acts in his
20 capacity as executive director and not on day-to-day actions. With respect to each and every
21 remaining allegation contained in paragraph 4, these answering cross-defendants deny the same.

22 4. Answering paragraphs 5, 6, 7, 8 and 9 of the cross-complaint in the
23 section entitled General Allegations, these answering cross-defendants are without knowledge
24 or information sufficient to form a belief as to the truth of the allegations contained in these
25 paragraphs and based thereon deny the same.

26 5. Answering paragraph 10 of the cross-complaint in the section entitled
27 General Allegations, these answering cross-defendants admit each and every allegation set forth
28 therein.

1 6. Answering paragraph 11 of the cross-complaint in the section entitled
2 General Allegations, these answering cross-defendants are without knowledge or information
3 sufficient to form a belief as to the truth of the allegations contained in this paragraph and based
4 thereon deny the same.

5 III. FIRST CLAIM FOR RELIEF

6 [BREACH OF IMPLIED WARRANTY]

7 7. Answering paragraph 12 of the cross-complaint entitled First Claim fro
8 Relief, these answering cross-defendants deny any allegation that it prepared, produced or
9 provided the plans and specifications for the Silver Sage Construction project.

10 8. Answering paragraphs 13, 14, and 15 of the cross-complaint in the
11 section entitled First Claim for Relief, these answering cross-defendants deny each and every
12 allegation contained therein. To the extent the allegations relate to other cross-defendants, these
13 answering cross-defendants are without knowledge or information sufficient to form a belief
14 as to the truth of the allegations contained in these paragraphs and based thereon denies the
15 same.

16 9. Answering paragraph 16 of the cross-complaint in the section entitled
17 First Claim for Relief, these answering cross-defendants are without knowledge or information
18 sufficient to form a belief as to the truth of the allegations contained in this paragraph and based
19 thereon deny the same.

20 IV. SECOND CLAIM FOR RELIEF

21 [EQUITABLE INDEMNIFICATION AND CONTRIBUTION]

22 10. Answering paragraph 17 of the cross-complaint in the section entitled
23 Second Claim for Relief, these answering cross-defendants adopt by reference and incorporates
24 herein, each, every and all of its answers to paragraphs 1 through 16, inclusive, of the cross-
25 complaint as if set forth in full herein.

26 11. Answering paragraphs 18 and 21 of the cross-complaint in the section
27 entitled Second Claim for Relief, these answering cross-defendants are without knowledge or
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1 information sufficient to form a belief as to the truth of the allegations contained in this
2 paragraph and based thereon deny the same.

3 12. Answering paragraphs 19 and 20 of the cross-complaint in the section
4 entitled Second Claim for Relief, these answering cross-defendants deny each and every
5 allegation contained therein. To the extent the allegations relate to other cross-defendants, these
6 answering cross-defendants are without knowledge or information sufficient to form a belief
7 as to the truth of the allegations contained in these paragraphs and based thereon denies the
8 same.

9 V. THIRD CLAIM FOR RELIEF
10 [DECLARATORY JUDGMENT]

11 13. Answering paragraph 22 of the cross-complaint in the section entitled
12 Third Claim for Relief, these answering cross-defendants adopt by reference and incorporates
13 herein, each, every and all of its answers to paragraphs 1 through 21, inclusive, of the cross-
14 complaint as if set forth in full herein.

15 14. Answering paragraph 23 of the cross-complaint in the section entitled
16 Third Claim for Relief, these answering cross-defendants admit the truth of each and every
17 allegation contained therein.

18 15. Answering paragraphs 24 and 26 of the cross-complaint in the section
19 entitled Third Claim for Relief, these answering cross-defendants are without knowledge or
20 information sufficient to form a belief as to the truth of the allegations contained in these
21 paragraphs and based thereon deny the same.

22 16. Answering paragraph 25 of the cross-complaint in the section entitled
23 Third Claim for Relief, these answering cross-defendants deny the truth of each and every
24 allegation contained therein. To the extent the allegations relate to other cross-defendants,
25 these answering cross-defendants are without knowledge or information sufficient to form a
26 belief as to the truth of the allegations contained in this paragraph and based thereon denies the
27 same.

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1 AS FOR SEPARATE AND AFFIRMATIVE DEFENSES, THESE
2 ANSWERING CROSS-DEFENDANTS ALLEGE AND AVER AS FOLLOWS:

3 **FIRST AFFIRMATIVE DEFENSE**

4 The cross-complaint of cross-complainant fails to state a claim upon which
5 relief may be validly granted.

6 **SECOND AFFIRMATIVE DEFENSE**

7 The cross-complaint is barred by the applicable statute of limitations period.

8 **THIRD AFFIRMATIVE DEFENSE**

9 The cross-complaint has been extinguished by Nevada's statutes of repose.

10 **FOURTH AFFIRMATIVE DEFENSE**

11 The cross-complaint for equitable indemnification and contribution is not
12 viable inasmuch as these answering cross-defendants have no liability to plaintiffs for the
13 damages sought by plaintiffs and, hence, a necessary predicate to the liability of cross-
14 defendants under an equitable indemnity or contribution claim does not exist.

15 **FIFTH AFFIRMATIVE DEFENSE**

16 Any tort claim asserted by cross-complainant against these answering cross-
17 defendants is precluded by Nevada's economic loss doctrine inasmuch as no privity of contract
18 exists between plaintiffs, cross-complainant and these answering cross-defendants and cross-
19 complainants seek recovery for pure economic loss.

20 **SIXTH AFFIRMATIVE DEFENSE**

21 Pursuant to the provisions of Rule 11 of the Federal Rules of Civil Procedure,
22 at the time of the filing of these answering cross-defendants' answer, all possible affirmative
23 defenses may not have been alleged inasmuch as insufficient facts and other relevant
24 information may not have been available after reasonable inquiry, and therefore, these
25 answering cross-defendants reserve the right to amend this answer to allege additional
26 affirmative defenses if subsequent investigation warrants the same.

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WHEREFORE, these answering cross-defendants pray as follows

1. That cross-complainants take nothing by reason of their cross-complaint;
2. That the cross-complaint be dismissed; and
3. That judgment be entered in favor of these answering cross-defendants and against cross-complainant for a reasonable attorneys' fee, for costs of suit and for such other and further relief as may be just and proper in the premises.

DATED this 20th day of March, 2001.

KERN & ROSENAUER, LTD.

GAYLE A. KERN, ESQ.
Attorneys for Defendants
Housing Authority of the City of Reno and
David Morton

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1 **CERTIFICATE OF SERVICE**

2 Pursuant to FRCP 5(b), I certify that I am an employee of the law offices of
3 Kern & Rosenauer, Ltd., 499 West Plumb Lane, Suite 202, Reno, NV 89509, and that on the
20th day of March, 2001, I served the foregoing document(s) described as follows:

4 **ANSWER OF DEFENDANTS HOUSING AUTHORITY OF THE CITY OF
RENO AND DAVID MORTON TO CROSS COMPLAINT OF
PACE CONSTRUCTION, INC.**

5 On the party(s) set forth below by:

6 Placing an original or true copy thereof in a sealed envelope placed for
7 collection and mailing in the United States Mail, at Reno, Nevada, postage
8 prepaid, following ordinary business practices.

9 Personal delivery.

10 Facsimile (FAX).

11 Federal Express or other overnight delivery.

12 Reno-Carson Messenger Service.

13 addressed as follows:

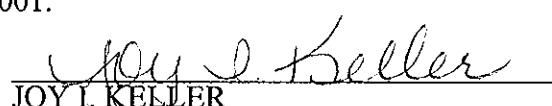
14 Ian Silverberg, Esq.
15 96 Winter Street
16 Reno, NV 89503

17 Christopher Brancart, Esq.
18 Brancart & Brancart
19 P.O. Box 686
20 Pescadero, CA 94060

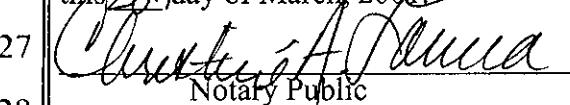
21 James Shields Beasley, Esq.
22 435 Court Street
23 P.O. Box 2936
24 Reno, NV 89505

25 Lori M. Story, Esq.
26 Bible, Hoy & Trachok
27 201 W. Liberty St., Ste. 300
28 Reno, NV 89501

29 Dated this 20th day of March, 2001.

30 
31 JOY I. KELLER

32 SUBSCRIBED & SWORN TO before me
33 this 20th day of March, 2001.

34 
35 Notary Public

